

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:23-HC-2107-M-RJ

MARILYN M. WOLFE,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
STATE OF NORTH CAROLINA,)	
)	
Respondents.)	

Petitioner, a state inmate proceeding pro se, petitions this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter is before the court for an initial review pursuant to Rule 4 of the Rules Governing § 2254 cases in the United States District Courts. Also before the court is petitioner's motion for relief from sentence [D.E. 14].

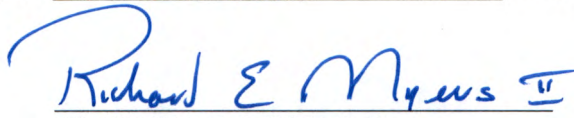
The court lacks jurisdiction to consider petitioner's claims. Petitioner seeks to challenge this criminal judgment in the instant petition. However, she has filed a previous § 2254 petition challenging the same criminal judgment. See Wolfe v. Unnamed Respondent, No. 5:21-HC-2083-BO (E.D.N.C. Apr. 5, 2022) (dismissing the action on the merits and denying certificate of appealability). Before petitioner may file a "second or successive" section 2254 petition in the district court, she must "move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Without such authorization, this court lacks jurisdiction to consider the petition. United States v. Winestock, 340 F.3d 200, 205 (4th Cir. 2003). Alternatively, the claims are meritless for the same reasons stated in Wolfe v. Unnamed Respondent, No. 5:21-HC-2083-BO (E.D.N.C. Apr. 5, 2022).

Although the petition is not the model of clarity, petitioner appears to seek legal advice explaining her state criminal sentence. However, the court cannot provide petitioner legal advice.

Because reasonable jurists would not find the court's treatment of any of these claims debatable or wrong, and because none of the issues are adequate to deserve encouragement to proceed further, the court also denies a certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Based on the foregoing, the petition is DISMISSED without prejudice and a certificate of appealability is DENIED. Petitioner's motion for relief [D.E. 14] is DENIED as moot. The clerk is DIRECTED to close this case.

SO ORDERED, this the 6th day of June, 2024.


RICHARD E. MYERS, II
Chief United States District Judge